

April 28, 2023

VIA ECF

The Honorable Lorna G. Schofield
United States District Court for the Southern District of New York
40 Foley Square
New York, New York 10007

Re: McKoy, et al. v. The Trump Corp., et al., No. 18-cv-09936 – Letter Motion to Seal

Dear Judge Schofield:

We write on behalf of Plaintiffs and the putative classes in the above-referenced action, pursuant to Rule I.D.3 of Your Honor's Individual Rules, to respectfully request provisional approval to file under seal an unredacted version of Plaintiffs' letter to the Court opposing Defendants' request for leave to move for summary judgment. ECF 559.¹

In the Letter, Plaintiffs refer to information found in and quote from documents and transcripts that have been designated as "Confidential" by Defendants and non-party ACN under Paragraph 3 of the operative Protective Order entered by the Court on September 10, 2019. *See* ECF 112.

In accordance with Paragraph 16 of the Protective Order, which incorporates by reference Rule I.D.3 of Your Honor's Individual Rules, Plaintiffs have provisionally filed the unredacted Letter under seal and have provisionally redacted references to the information designated as Confidential in the Letter filed on the public docket. Pursuant to the Protective Order, however, the entity or entities "with an interest in confidential treatment bears the burden of persuasion." ECF 112 at 5. Defendants and ACN, as the parties that made the relevant confidentiality designations, have the "interest in confidential treatment." *Id.*

Finally, for the avoidance of doubt, Plaintiffs take no position at this time on whether the redacted information was properly designated as Confidential or whether it ought to remain sealed from the public. Plaintiffs further respectfully reserve the right to challenge the relevant confidentiality designations in the future pursuant to Paragraph 15 of the Protective Order.

¹ In accordance with Rule I.D.3 of Your Honor's Individual Rules, an unredacted copy of the Letter, with redactions highlighted, will be filed under seal contemporaneously with this letter motion. *See* Standing Order, 19-mc-00583 (Dec. 19, 2019); Electronic Case Filing Rules & Instructions, Rule 6.8. Plaintiffs will timely serve the unredacted version on Defendants.

KAPLAN HECKER & FINK LLP

2

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "John C. Quinn", is written over the typed name.

John C. Quinn

cc: *All Counsel of Record (via ECF)*